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19 **UNITED STATES DISTRICT COURT**
20 **NORTHERN DISTRICT OF CALIFORNIA**

21 **SAN FRANCISCO DIVISION**

22 RICHARD KADREY, *et al.*,
23 Individual and Representative Plaintiffs,
24 v.
25 META PLATFORMS, INC., a Delaware
corporation;
26 Defendant.
27

28 Case No. 3:23-cv-03417-VC-TSH

**JOINT ADMINISTRATIVE MOTION TO FILE
UNDER SEAL JOINT DISCOVERY LETTER
BRIEF AND EXHIBITS**

1 Pursuant to Civil Local Rule 79-5(c) and 79-5(d), Plaintiffs Richard Kadrey, Sarah
 2 Silverman, Christopher Golden, Ta-Nehisi Coates, Junot Diaz, Andrew Sean Greer, David Henry
 3 Hwang, Matthew Klam, Laura Lippman, Rachel Louise Snyder, Jacqueline Woodson, and Lysa
 4 TerKeurst (collectively, “Plaintiffs”) and Defendant Meta Platforms, Inc. (“Meta”) (collectively,
 5 the “Parties”) hereby jointly move this Court for an Order allowing the parties to file under seal
 6 confidential, unredacted versions of certain documents relating to the Parties’ Joint Letter Brief on
 7 Meta’s Motion for a Protective Order re: Plaintiff’s Request to Depose Mark Zuckerberg (“Joint
 8 Letter Brief”). The Parties respectfully submit that compelling reasons exist for the filing of these
 9 documents under seal. The motion is based on the following Memorandum of Points and
 10 Authorities and the Declarations of Nikki Vo in support of this Joint Administrative Motion to File
 11 Under Seal.

12 The following chart lists the documents for which the Parties request sealing – in whole or
 13 in part – in order to protect Meta’s confidential business information.

14 Document	15 Sealing Request
16 Joint Discovery Letter Brief	17 • Redacted portions
17 Exhibit E to Joint Discovery Letter Brief	18 • Entire document
18 Exhibit F to Joint Discovery Letter Brief	19 • Entire document
19 Exhibit G to Joint Discovery Letter Brief	20 • Entire document
20 Exhibit H to Joint Discovery Letter Brief	21 • Entire document
21 Exhibit I to Joint Discovery Letter Brief	22 • Entire document
22 Exhibit J to Joint Discovery Letter	23 • Entire document
23 Exhibit K to Joint Discovery Letter	24 • Entire document
24 Exhibit L to Joint Discovery Letter	25 • Entire document
25 Exhibit M to Joint Discovery Letter	26 • Entire document
26 Exhibit N to Joint Discovery Letter	

1 A [Proposed] Order is filed concurrently herewith, and the Parties refer the Court to the Joint Letter
 2 itself and the supporting evidence attached thereto as further support for this Joint Administrative
 3 Motion.

4 **I. LEGAL ARGUMENT**

5 Though the presumption of public access to judicial proceedings and records is strong, it
 6 “is not absolute.” *Nixon v. Warner Commc’ns. Inc.*, 435 U.S. 589, 598 (19787). The Ninth Circuit
 7 treats documents “attached to dispositive motions differently from records [i.e., documents]
 8 attached to non-dispositive motions.” *Kamakana v. City & Cty. of Honolulu*, 447 F.3d 1172, 1180
 9 (9th Cir. 2006); *Ctr. for Auto Safety v. Chrysler Grp.*, 809 F.3d 1092, 1098 (9th Cir. 2016). For
 10 non-dispositive motions, such as the Parties’ Joint Letter Brief, the “good cause” standard applies.
 11 *OpenTV v. Apple*, No. 14-cv-01622-HSG, 2015 WL 5714851, at *2 (N.D. Cal. Sept. 17, 2015);
 12 *Kamakana*, 447 F.3d at 1180 (“A ‘good cause’ showing will suffice to seal documents produced in
 13 discovery.”). The Federal Rules afford district courts “flexibility in balancing and protecting the
 14 interests of private parties.” *Kamakana*, 447 F.3d at 1180; *DSS Tech. Mgmt. v. Apple*, No. 14-cv-
 15 05330-HSG, 2020 WL 210318, at *8 (N.D. Cal. Jan. 14, 2020), *aff’d*, 845 F. App’x 963
 16 (Fed. Cir. 2021) (finding good cause to seal “confidential business and proprietary information”).

17 The portions of the Joint Letter Brief and Exhibits E–N, attached thereto, contain Meta’s
 18 confidential information, for which Meta requests sealing. Exhibits E–N, are internal Meta
 19 documents and communications concerning matters including budget allocations, high-level
 20 business strategy, plans for growth and monetization, and detailed technical discussion concerning
 21 Meta’s AI development. Meta must request sealing of these materials, as this information is highly
 22 confidential, and Meta takes steps to carefully protect the confidentiality of information of this sort
 23 as disclosure has the potential to cause significant competitive injury to Meta. *See, e.g., Krieger v.*
Atheros Commc’ns, Inc., No. 11-CV-640-LHK, 2011 WL 2550831, at *1 (N.D. Cal. Jun. 25, 2011)
 24 (finding information regarding party’s “long-term financial projections, discussions of business
 25 strategy, and competitive analyses” sealable); *Space Data Corp. v. Alphabet Inc.*, No. 16-CV-
 26 03260-BLF, 2019 WL 285799, at *1 (N.D. Cal. Jan. 22, 2019) (finding information regarding
 27 party’s confidential and proprietary technical information, and sensitive financial information
 28

1 sealable). The portions of the Joint Letter Brief that the Parties seek to redact quote from or describe
 2 the contents of Exhibits E–N. These sealing requests are critical to protect Meta’s confidential
 3 sensitive technical and competitive information.

4 The specific basis for sealing these materials is outlined in the accompanying declaration
 5 of Meta’s Director and Associate General Counsel, Nikki K. Vo. As outlined in Ms. Vo’s
 6 declaration, disclosure of the protected information contained in the materials the Parties seek to
 7 seal would work competitive harm to Meta if this information is publicly disclosed. The Parties’
 8 sealing requests and proposed redactions are narrowly tailored to include only that information
 9 which would cause specific, articulable harm, as identified in Ms. Vo’s declaration. In each
 10 instance, the harm to Meta outweighs the public’s interest in disclosure. *See, e.g., In re iPhone*
 11 *App. Litig.*, No. 11-md-02250-LHK, 2013 WL 12335013, at *2 (N.D. Cal. Nov. 25, 2013) (granting
 12 motion to seal where the defendant’s interest in “maintaining the confidentiality of information
 13 about its technology and internal business operations” outweighed that of the public in accessing
 14 such documents).

15 **II. CONCLUSION**

16 Pursuant to Civil Local Rule 79-5, redacted and unredacted versions of the above-listed
 17 documents accompany this Administrative Motion. For the foregoing reasons, the Parties
 18 respectfully request that the Court grant their Joint Administrative Motion to Seal.

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1 Dated: September 20, 2024

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3 By: /s/ Kathleen Hartnett

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1 Dated: September 20, 2024

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1
2 **ATTESTATION PURSUANT TO CIVIL LOCAL RULE 5-1(h)**

3 I hereby attest that I obtained concurrence in the filing of this document from each of the
4 other signatories. I declare under penalty of perjury that the foregoing is true and correct.

5 Dated: September 20, 2024

6 COOLEY LLP

7 /s/ Kathleen Hartnett

8 *Attorneys for Defendant*
9 Meta Platforms, Inc.

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